

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**  
**Kentucky Commission on Proprietary Education**  
**(Amendment)**

**791 KAR 1:155. School closing process.**

RELATES TO: KRS 61.870-61.884, 61.878(1)-(5), 165A.340(8), 165A.370, 165A.390(5)

STATUTORY AUTHORITY: KRS 165A.390(5), 165A.400

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.400 authorizes the Commission [~~Board~~] to promulgate administrative regulations to administer the provisions of KRS 165A.310 to 165A.390. Pursuant to KRS 165A.390(5), prior to discontinuance of operations, a school shall convey student records to the commission. The Commission [~~board~~] shall set forth which records are to be conveyed, the manner they are to be conveyed, where they shall be stored and the length of time for storage. This administrative regulation sets forth the specific responsibilities of a licensed school if it discontinues operations in accordance with KRS 165A.390(5).

Section 1. Definitions. (1) "Academic records" means records pertaining to academic matters, including enrollment agreements, contracts, transcripts, syllabi, catalogs, course listings, and attendance records [~~whether maintained in paper or electronic form~~].

(2) "Discontinuance of operation" means ceasing to operate as a school in the ordinary course of business, or in accordance with the minimum standards and requirements set forth in KRS 165A.370, or in a manner that prevents a student from completing the course or program [~~courses~~] as scheduled.

(3) "Financial aid records" means records pertaining to financial aid matters including applications for financial aid, award notices, disbursement amounts, refunds, student accounts, and loan promissory notes.

(4) "Financial records" means records pertaining to financial matters including ledger cards to include charges, credits, disbursements, refunds, and financial information.

Section 2. Procedures for Discontinuance of Operations and Conveyance of Student Records. (1) A school shall notify the commission in writing of its intent to discontinue operations at least ten (10) business days prior to discontinuation of operations.

(2) A school shall simultaneously submit to the commission and the surety or financial institution notification of cancellation of school surety bonds, agent surety bonds, or letters of credit.

(3) If a school closes, the school shall make arrangements with the commission to forward all student transcripts, financial aid records, and financial records to the offices of the commission.

(4) If a school closes, the school shall arrange with another school or schools to provide teach-out options for students who may need that service.

Section 3. Immediate or Precipitous School Closure. In the absence of a notification of the intent to close, if the commission determines that a school has discontinued operations, a school shall submit the following records:

(1) Academic records of current and former students who attended the school within the last two (2) years prior to closure;

(2) Transcripts of former students who attended the school more than two (2) years prior to closure;

(3) Financial aid records of current and former students; and

- (4) Financial records of current and former students; and
- (5) Documents subpoenaed by the commission or the commission's designee in accordance with KRS 165A.340(8).

Section 4. Retention of Records by the Commission. (1) The commission shall retain the original documents, or true and accurate copies, of transcripts and all other documentation received pursuant to Section 2 of this administrative regulation, in accordance with the Kentucky Commission on Proprietary Education Records Retention Schedule Recommendation developed with the Kentucky Department of Libraries and Archives.

(2) Documents obtained by the commission pursuant to Section 2 of this administrative regulation shall be state records under KRS 61.870 to 61.884 and subject to KRS 61.878(1)-(5).

Section 5. Incorporation by Reference. (1) "Kentucky Commission on Proprietary Education Records Retention Schedule Recommendation", June 14, 2012~~[October 18, 2007, is incorporated by reference]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Commission on Proprietary Education, 500 Mero Street ~~[300 Sower Boulevard]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MISTY N. EDWARDS, Executive Director

For DAVID W. FLOYD, Chair

APPROVED BY AGENCY: August 4, 2021

FILED WITH LRC: August 4, 2021 at 11:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2021, at 1:00 p.m. Eastern Time, at the Mayo-Underwood Building Hearing Room, 500 Mero Street, 1st Floor, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on October 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Misty Edwards, Executive Director, Kentucky Commission on Proprietary Education, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601-1957, phone 502-564-4185, email [kcpe@ky.gov](mailto:kcpe@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Misty Edward

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation (791 KAR 1:155) sets forth the specific responsibilities of a licensed school if it discontinues operations in accordance with KRS 165A.390(5).

(b) The necessity of this administrative regulation: This administrative regulation (791 KAR 1:155) outlines the school closure process.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This statute requires the commission to promulgate administrative regulations to administer the provisions of KRS 165A.310 to 165A.390

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation provides guidance on school closures.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: If a school closes, the school shall arrange with another school or schools to provide teach-out options for students who may need that service.

(b) The necessity of the amendment to this administrative regulation: This amendment aims to protect the interests of the enrollees.

(c) How the amendment conforms to the content of the authorizing statutes: The statute sets forth the specific responsibilities of a licensed school if it discontinues operations.

(d) How the amendment will assist in the effective administration of the statutes: This amendment aims to protect the interests of the enrollees and provide an equitable treatment of enrollees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Commission on Proprietary Education, the 189 licensed proprietary schools, and any proprietary school requiring licensure pursuant to KRS 165A.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: All proprietary schools will be required to arrange with another school or schools to provide teach-out options for students who may need that service.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is not a cost increase associated with the proposed amendment.

(c) As a result of compliance, what benefits will accrue to the entities: A teach-out plan allows a school to demonstrate its obligation to fulfill its educational commitment to currently enrolled students.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no costs to the commission associated with the implementation of this amendment.

(b) On a continuing basis: There will be no costs to the commission associated with the implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The commission is funded entirely through fees paid by licensed schools.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendment to this administrative regulation will not require an increase in fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment to this administrative regulation will not require an increase in fees.

(9) TIERING: Is tiering applied? Tiering is not applied because there is no change to the fee or application structure.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Commission on Proprietary Education and proprietary schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 165A, KRS 165A.390(5), 165A.400.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amended administrative regulation will not generate any new revenue for the commission.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amended administrative regulation will not generate any new revenue for the commission.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs will remain unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no fiscal impact associated with this amendment.